

REMARKS

Entry of this Amendment in accordance with the provisions of 37 CFR §1.114 is respectfully requested.

This Amendment is in response to the Office Action dated July 7, 2005. By the present amendment, each of the independent claims has been amended to clarify the invention, as will be discussed below. In addition, new dependent claims 47-52 have been added to further define the assembly body as being comprised of a one-piece suction module to address an issue raised in the first paragraph of page 6 of the Office Action, as will also be discussed below.

Briefly, the present claimed invention is directed to an improved suction device for an internal combustion engine which includes an assembly body comprised of a collector and individual suction pipes (noting that the collector is shown with the numeral 10 in Figs. such as 2(a) and 2(b) and 10 and with the numeral 101 in Figs. such as 46, while the individual suction pipes are shown with the numeral 11, as can be seen in Fig. 2(a) having suction ports designated with the numeral 4, as shown in Fig. 2(a) and Fig. 2(b), noting that all references to the Figures are solely for purposes of example). In particular, the present claimed invention is directed to the relationship between this assembly body and an electronically controlled throttle valve driven by a motor attached to a throttle housing. Again, for purposes of example, it is noted that the various drawings such as Figs. 2(a), 2(b), 10 and 46 show the throttle valve 8 driven by a motor 9. By the present amendment, each of the independent claims has been amended to specifically define a relationship between an outlet of the throttle housing and an inlet

of the assembly body and a relationship between the suction pipes and an inlet of the throttle housing.

Reconsideration and allowance of the independent claims 28, 30, 32, 34, 38 and 43 over the cited references to Hitomi (USP 5,063,899) and Shillington (USP 5,005,532) is respectfully requested. By the present amendment, each of the independent claims has been amended to specifically define:

"Wherein an outlet of said throttle housing on which said motor is mounted is fixed to an inlet of said assembly body, and
Wherein said suction pipes for introducing the air from said air cleaner are fixed to an inlet of said throttle housing on which said motor is mounted."

As such, the above noted relationship between the outlet of the throttle housing and the inlet of the assembly body and between the inlet of the throttle housing and the suction pipes is clearly defined. It is noted that support for this amended language can be seen in the structure of Figs. 2-5, 7, 8, 12-15, 50 and 54 (solely for purposes of example). By virtue of this claimed structural relationship, it is possible to account for apparatus differences in suction characteristics of suction devices (which apparatus differences occur in manufacturing). In other words, the recited structural relationship between the assembly body, the suction pipes and the throttle housing make it possible to account for manufacturing differences which naturally occur in suction devices, even where the suction devices are manufactured on the same assembly line. In addition, by virtue of using the claimed structural arrangement, it is possible to exchange throttle housings on which the motor is mounted to custom tailor the throttle housing and motor to the particular suction device and internal combustion engine being manufactured.

It is respectfully submitted that the primary reference to Hitomi is silent with regard to any specific relationship between a throttle housing having a motor and the inlet of an assembly body and the outlet of suction pipes. As recognized in the Office Action, Hitomi fails to disclose the location of the motor at all. In the Office Action, it is stated that this involves routine skill in the art. In light of the new amendments which more clearly define the relationship between the throttle housing on which the motor is mounted and the inlet of the assembly body and the outlet of the suction pipes, it is respectfully submitted that this broad statement of "routine skill in the art fails to provide the necessary motivation required by MPEP §2143.01 for formulating a proper rejection. As noted in MPEP §2143.01:

"Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art."

Clearly, there is no suggestion whatsoever in Hitomi or Shillington for modifying Hitomi to arrive at the claimed structure concerning the throttle house on which the motor is mounted, particularly in light of the further structural features defined by the amended independent claims. With regard to "knowledge generally available to one of ordinary skill in the art" , MPEP §2144.03 clearly states:

"It is never appropriate to realize solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based."

MPEP §2144.03 further states:

"Official notice unsupported by documentary evidence should only be taken by the Examiner where the facts asserted to be well known, or to be common knowledge in the art are capable of instant and unquestionable demonstration of being well known."

In the present instance, it is respectfully submitted that it is clearly not "capable of instant and unquestionable demonstration as being well known" to make the extensive modifications to Hitomi which would be necessary to arrive at the claimed invention, particularly in light of the present amendments. Accordingly, reconsideration and allowance of the independent claims 28, 30, 32, 38 and 43 and their dependent claims, is respectfully requested.

Reconsideration of the newly submitted dependent claims 47 - 52, is also respectfully requested. These dependent claims further limit the "assembly body" recited in each of their respective independent claims to a "one-piece suction module." This has been done in light of the statement in the first paragraph on page 6 of the Office Action that:

"Note that applicant has broadened some of the claims by substituting "assembly body" for the term "one-piece suction module." This language is construed to read on Hitomi et al (USP 5,063,899) since the term "assembly body" is interpreted as meaning an assembly of parts are brought together to function as a unit."

Notwithstanding applicants disagreement with the interpretation of "assembly body" set forth in the Office Action, the addition of the new claims 47-52 defining the assembly body as a "one-piece suction module" clearly defines a structure neither taught nor suggested by Hitomi, as appears to be recognized by the Examiner in the above quoted statement. Therefore, consideration and allowance of these newly submitted dependent claims is also respectfully requested as defining an overall combination, (particularly considering the Amendments to the respective

independent claims) which is neither taught nor suggested by Hitomi, whether considered alone or in combination with any of the other cited art of record.

Finally, reconsideration and removal of the obviousness-type double patenting rejections set forth in the Office Action based on parent USP 6,701,881 and 6,523,517 is also respectfully requested. With regard to this, although applicants respectfully submit that the present amended claims clearly define structural features neither taught nor suggested by the cited parent patents, it is noted that a Terminal Disclaimer has already been filed in this application by the Supplemental Response filed on May 2, 2005. Since the July 7, 2005 Office Action did not indicate that the May 2, 2005 Supplemental Response and Terminal Disclaimer have been entered and considered, applicants are re-submitting the May 2, 2005 Terminal Disclaimer herewith as an Appendix. Accordingly, entry of this Terminal Disclaimer and removal of the obviousness-type double patenting rejection is respectfully requested.

If the Examiner believes that there are any matters that can be resolved by way of either a personal or telephone interview, the Examiner is invited to contact Applicants' undersigned attorney at the number indicated below to arrange for an interview.

To the extent necessary, Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of

Application No. 10/673,221
Applicants: M. OHSUGA, et al.

503.33468CC6

this paper, including extension of time fees, to the Deposit Account No. 01-2135
(Docket No. 503.33468CC6), and please credit any excess fees to such Deposit
Account.

Respectfully submitted,
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